

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

MELODY M. LARROCCA, _____ **X**

Plaintiff,

Civil Action
No. 08 CIV 6274

-against-

NOTICE OF MOTION

Hon. Stephen J. Robinson

COLLEN IP, INTELLECTUAL PROPERTY
LAW, P.C., and DONALD J. RANFT, as Aider
And Abettor,

Oral Argument Requested

Defendants.

_____ **X**

PLEASE TAKE NOTICE that upon this notice of motion, the Declaration of Lawrence A. Garvey dated August 21, 2008, with exhibits, and the accompanying supporting memorandum of law, defendants Collen IP, Intellectual Property Law, P.C. (hereinafter referred to as “Defendant Collen IP”), and Donald J. Ranft, as Aider and Abettor (hereinafter referred to as “Ranft”), by their undersigned counsel, move this Court, in accordance with Local Civil Rule 6.1 of the Southern District and section II of the Individual Rules of Practice of the Honorable Stephen J. Robinson, United States District Judge, at the United States District Courthouse, 300 Quattropas Street, Room 633, White Plains, New York 10601-4150, for an order dismissing plaintiff’s third cause of action entitled infliction of emotional distress for failure to state a claim upon which relief can be granted pursuant to FED. R. CIV. P. 12(b)(6), and for such other and further relief as the Court deems just and proper.

Electronically Filed

Dated: Tarrytown, New York
August 29, 2008

Respectfully submitted,

LAW OFFICES OF CUSHNER & GARVEY, LLP

By: S/
Lawrence A. Garvey (LG9113)
*Attorneys for Defendants Colleen IP,
Intellectual Property Law, P.C., and
Donald J. Ranft, as Aider and Abettor
155 White Plains Road, Suite 207
Tarrytown, New York 10591
Tele (914) 524-9400 / Fax (914) 524-0422*

TO:

Mr. Kyle McGovern (KM3373)
Lyons McGovern LLP
Attorneys for Plaintiff Melody M. LaRocca
16 New Broadway
Sleepy Hollow, New York 10591
(914) 631-1336

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MELODY M. LARROCCA,

X

Plaintiff,

Civil Action
No. 08 CIV 6274

-against-

DECLARATION OF
LAWRENCE A. GARVEY

COLLEN IP, INTELLECTUAL PROPERTY
LAW, P.C., and DONALD J. RANFT, as Aider
and Abettor,

Hon. Stephen J. Robinson

Defendants.

X

Lawrence A. Garvey, declares, pursuant to the provisions of 28 U.S.C. § 1746:

1. I am a partner with the Law Offices of Cushner & Garvey, LLP, attorneys for Defendants Collen IP, Intellectual Property Law, P.C. (hereinafter referred to as "Defendant Collen IP") and Donald J. Ranft, as Aider and Abettor (hereinafter referred to as "Defendant Ranft") (collectively referred to as "Defendants"). I am fully familiar with the facts and circumstances set forth herein.

2. This declaration is submitted together with the exhibits annexed hereto and the Memorandum of Law in support of Defendants' motion for an order dismissing the claims contained in plaintiff's third cause of action entitled "infliction of emotional distress" pursuant to FED. R. CIV. P. 12(b)(6) as plaintiff failed to state a claim upon which relief could be granted,), as well as such other further and different relief as this Court deems just and proper.

3. A copy of the Complaint is annexed hereto as **Exhibit A**.

Electronically Filed

Dated: Tarrytown, New York
August 25, 2008

Respectfully submitted,

LAW OFFICES OF CUSHNER & GARVEY, LLP

By: S/

Lawrence A. Garvey (LG9113)
*Attorneys for Defendants Colleen IP,
Intellectual Property Law, P.C., and
Donald J. Ranft, as Aider and Abettor*
155 White Plains Road, Suite 207
Tarrytown, New York 10591
Tele (914) 524-9400 / Fax (914) 524-0422